

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE

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SNMP RESEARCH, INC. and SNMP
RESEARCH INTERNATIONAL, INC.,

Plaintiffs,

v.

BROADCOM INC.; BROCADE
COMMUNICATIONS SYSTEMS LLC; and
EXTREME NETWORKS, INC.,

Defendants.
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Case No. 3:20-cv-00451-CEA-DCP

U.S. District Judge Charles E. Atchley

**DECLARATION OF LESLIE A. DEMERS IN SUPPORT OF
EXTREME NETWORKS, INC.'S MOTION TO REFER
QUESTIONS TO THE REGISTER OF COPYRIGHTS**

I, Leslie A. Demers, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am an attorney at the law firm of Skadden, Arps, Slate, Meagher & Flom LLP, counsel of record for defendant Extreme Networks, Inc. ("Extreme") in this action. I am a member of good standing of the State Bar of New York and have been admitted *pro hac vice* to this Court. I have personal knowledge of the facts set forth in this Declaration and can and will testify thereto under oath if called to do so.

2. I submit this declaration to transmit to the Court the attached exhibits and the following information in support of Extreme's Motion to Refer Questions to the Register of Copyrights (the "Motion").

3. Attached as **Exhibit 1** are true and correct excerpts of the U.S. Copyright Office, *Compendium of U.S. Copyright Office Practices* (3d ed. 2021) (cited in the Memorandum in

Support of the Motion as “Compendium III”) showing the Introduction and §§ 612.2, 721.9(E), 1802.8(A)(2), 1905.1, and 2306.4.

4. Attached as **Exhibit 2** are true and correct excerpts of the U.S. Copyright Office, *Compendium of U.S. Copyright Office Practices* (2d ed. 1984) (cited in the Memorandum in Support of the Motion as “Compendium II”) showing § 321.03.

5. Attached as **Exhibit 3** are true and correct excerpts of a “Preliminary Valuation Calculations” report dated May 19, 2005. The full document was produced by Plaintiffs¹ bearing Bates numbers SNMP-0024555 to SNMP-0024660.

6. Attached as **Exhibit 4** are true and correct excerpts of Extreme’s Form 10-K for the fiscal year ended July 3, 2011. The full document was produced by Extreme bearing Bates numbers EXTREME-00725176 to EXTREME-00725265.

7. Attached as **Exhibit 5** are true and correct excerpts of Plaintiffs’ Supplemental Responses to Extreme’s First Set of Interrogatories, dated August 8, 2022, showing Plaintiffs’ Supplemental Response to Interrogatory No. 3.

8. Attached as **Exhibit 6** are true and correct excerpts of the Copyright Office’s “Circular 1, *Copyright Basics*.” The full document was produced by Plaintiffs bearing Bates numbers SNMP-0016686 to SNMP-0016697.

9. Attached as **Exhibit 7** are true and correct excerpts of a document titled “Welcome to the eCO (electronic Copyright Office) Tutorial.” The full document was produced by Plaintiffs bearing Bates numbers SNMP-0018344 to SNMP-0018388. A readout of the metadata for this document as produced by Plaintiffs is included at the last page of the exhibit.

¹ “Plaintiffs” are SNMP Research, Inc. and SNMPR Research International, Inc.

10. Attached as **Exhibit 8** is a true and correct copy of the Copyright Office's "Form CO Instructions" as produced by Plaintiffs bearing Bates numbers SNMP-0018400 to SNMP-0018403. A readout of the metadata for this document as produced by Plaintiffs is included at the last page of the exhibit.

11. Attached as **Exhibit 9** is a true and correct copy of e-mail correspondence dated February 2011 produced by Plaintiffs bearing Bates numbers SNMP-0018440 to SNMP-0018442.

12. During the course of discovery, Plaintiffs have served productions of their agreements that grant rights to Plaintiffs' software on me as outside counsel for Extreme. To my knowledge, these productions include agreements granting rights to Plaintiffs' alleged copyrighted software to over 675 unique entities through January 2011.

13. Plaintiffs' production contains agreements with [REDACTED] Brocade Communications Systems, Inc., [REDACTED] that were effective by January 2011.

Executed on March 20, 2023 in New York, New York.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Leslie A. Demers
Leslie A. Demers